

REMARKS

Claims 1-4 are pending and under consideration in the above-identified application.

Claim 5 was previously cancelled and remains cancelled

In the Office Action of February 3, 2011, claims 1-5 were rejected.

With this Amendment, claim 1 is amended.

I. 35 U.S.C. § 103 Obviousness Rejection of Claims

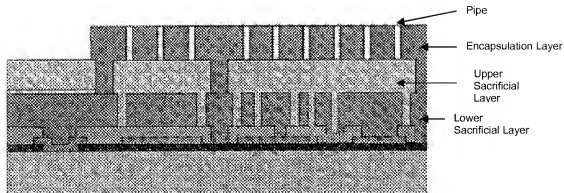
Claims 1-2 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ouellet* (U.S. Pat. No. 6,635,509) ("*Ouellet*") in view of *Brunner* (U.S. Pat. Pub. No. 2005/0221528) ("*Brunner*") in view of *Murakami* (U.S. Pat. No. 4,838,088) ("*Murakami*") and *Wolf* (vol. 1, pages 331-332) ("*Wolf*").

Claims 3-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable *Brunner* in view of *Murakami* or *Cady* in view of *Zurn* (U.S. Pat. No. 6,621,134) ("*Zurn*") and in further view of *Schmid* (U.S. Pat. No. 6,761,068) ("*Schmid*") and in further view of *Carley* (U.S. Pat. No. 7,008,812) ("*Carley*").

Applicant respectfully traverses this rejection.

In relevant part, independent claim 1 recites a method including the steps of (1) forming an oscillator on a first sacrificial layer, (2) forming a second sacrifice layer on the top and side surfaces of the oscillator and (3) covering the exposed portions of the first and second sacrifice layers with an overcoat film, followed by the formation of a penetrating hole extending through the overcoat film to reach the first sacrifice layer.

This is clearly unlike *Ouellet* which fails to disclose this feature. Instead, *Ouellet* discloses forming pipes in an encapsulation structure which extend to an upper sacrificial layer only. See, U.S. Pat. No. 6,635,509, Col. 13, l. 30-43.



As the figure demonstrates, the pipes in the encapsulation layer only extend to the upper sacrificial layer and not to the second sacrificial layer. See, *Id.*; FIG 14(n). This cannot be fairly viewed as disclosing a method including the steps of (1) forming an oscillator on a first sacrificial layer, (2) forming a second sacrifice layer on the top and side surfaces of the oscillator and (3) covering the exposed portions of the first and second sacrifice layers with an overcoat film, followed by the formation of a penetrating hole extending through the overcoat film to reach the first sacrifice layer because *Ouelett* only discloses pipes which extend to an upper sacrificial layer above the ISDP and not pipes which extend to the lower sacrificial layer.

Brunner and *Murakami* fail to cure this deficiency. Instead, *Brunner* discloses access trenches 213 and 219 being formed in a capping layer 211 exposing regions 215 and 217 of a second sacrificial layer 219 which is located above a feature 206. See, U.S. Pat. Pub. No. 2005/0221528, Para. [0042]. *Murakami* discloses perforations made in an upper insulation layer which extend to a heavily doped central area. See, U.S. Pat. No. 4,838,088, Col. 4, l. 12-19. These references cannot be fairly viewed as disclosing a method including the steps of forming an oscillator on a first sacrificial layer, forming a second sacrifice layer on the top and side surfaces of the oscillator and covering the exposed portions of the first and second sacrifice layers with an overcoat film, followed by the formation of a penetrating hole extending through

the overcoat film to reach the first sacrifice layer because neither references discloses any opening extending to a sacrifice layer below an oscillator.

Wolf, Zurn, Schmid and *Carley* fail to disclose anything pertaining to a method including the steps of forming an oscillator on a first sacrificial layer, forming a second sacrifice layer on the top and side surfaces of the oscillator and covering the exposed portions of the first and second sacrifice layers with an overcoat film, followed by the formation of a penetrating hole extending through the overcoat film to reach the first sacrifice layer.

Therefore, because *Ouelett, Brunner, Murakami, Cady, Wolf, Zurn, Schmid, Carley* and any combination of them fails to disclose or even fairly suggest every element of claim 1, the rejection cannot stand. Since claims 2-5 depend, either directly or indirectly, from claim 1, they are allowable for at least the same reasons.

II. Conclusion

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

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